

WS. 20794A. 11.0140
WS. 20794A. 11.0279

ORIGINAL

ARIZONA CORPORATION COMMISS



0000135679

UTILITY COMPLAINT FORM

Investigator: Guadalupe Ortiz

Phone: (002) 111-1111

Fax: (002) 111-1111

Priority: Respond Within Five Days

Opinion No. 2012 - 103079

Date: 4/4/2012

Complaint Description: 08E Rate Cases Items - In Favor
N/A Not Applicable

Complaint By: First: Last:
Sherri Mehrvar

Account Name: Sherri Mehrvar

Home: (000) 000-0000

Street: :

Work:

City: Ehrenberg

CBR:

State: AZ Zip: 00000

is:

Utility Company: D11-Emerald Springs, LLC

Division: Sewer

Contact Name: "

Contact Phone: :

Nature of Complaint:

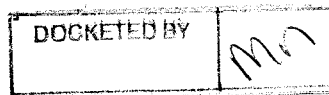
RE: Docket No.'s WS-20794A-11-0140
WS-20794A-11-0279

Arizona Corporation Commission
DOCKETED

4/3/2012 Email Received:

APR - 4 2012

From: Sherri Mehrvar [mailto:
Sent: Tuesday, April 03, 2012 12:07 PM
To: Guadalupe Ortiz; mailmasters@azcc.gov
Subject: Docket No. WS-20794A-11-0140



AZ CORP COMMISSION
DOCKET CONTROL

2012 APR - 4 P 2:41

RECEIVED

Dear Commission:

I am writing in regards to Docket No. WS-20794A-11-0140 at al

I have written previously regarding my opposition to a change in the sewer provider to Mr. Doyle Thompson. I would like to again state that I oppose Mr. Thompson becoming the sewer provider for Emerald Springs due to a number of factors. I will be out of the country on the 10th and will not be able to speak in person and I hope you allow my written testimony now. Attached are some documents that reflect some of the problems we had with Mr. Thompson in the past. I am not willing to go through anything that reflects past experiences with Mr. Thompson at all.

I have been a property owner in Emerald Springs for a number of years (around 10 years). I was the fourth person to purchase a home in the sub-division. I purchased from Stonecreek, Mr. George Lambert, the second developer. I have lived through many experiences in this community that many have walked away from. It's been very sad that we've had homeowners who have sold their property rather than fight the battles I've experienced. One of those battles was with Mr. Doyle Thompson. The battles with Mr. Doyle Thompson included turning off our sewer system, blocking our access to our homes multiple times, attempting to extort the community, using and damaging our private community property and allowing his tenants to do so too. Please

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

see the letter I've attached from Mr. Bob Watson our HOA President regarding these issues.

The current and previous Board members have not lived through these experiences nor have they gone back through the records of Emerald Springs Minutes to read for themselves what has taken place, what was voted upon, and what is the truth instead of hearsay. The current and previous boards have chosen to ignore the documentation available regarding the experiences this community had with Mr. Thompson from 1997 to 2004. The Board is in violation of the legal documents including the CC&R's. The Board members have taken it upon themselves to engage in the action(s) without input or voting from the homeowners. This board is not authorized to act the way they have been or the way they are acting as they do not have the authorization from the property owners.

The last HOA meeting was held over five (5) months ago. The Board was never authorized to hire an attorney and spend the HOA's money for this. In addition, we voted NOT to spend over \$1,000 on this sewer issue. I have not had an opportunity to examine the financials and have written several times to both the Board and their attorney. I have written at least 5 times requesting financials to find out the level of waste of this board and all times they refused to provide the requested information. I am certain the legal bill for this sewer issue is already over \$1,000; the amount authorized. This of course, is in direct violation of the law and the legal documents of this HOA. I had to keep reiterating to them it was AZ law to provide me with my requests within 10 days. I have asked in my letters, what are they hiding? The financials have always been available to any HOA member in the past. This Board is not running this HOA in the manner the legal documents demand to. I'm sure the financials could easily be faxed or emailed to me but the Board refuses to do so. We haven't had a HOA meeting in five (5) months and a homeowner is requesting financials and they don't want to provide them, why?. I will not have my HOA dues pay for personal agendas and will start paying my HOA dues under protest. I do not want my money being used to fight a battle that should be non-existent. Since Mr. Melendez provided the solution to our emergency problem in 2004; we have not had any issues or disruption of service. In fact, sewer fees were not increased for approximate 5 years. It is clear to me this has never been a money making transaction for Mr. Melendez but an action of good faith and consideration.

I cannot stand on the sidelines (as I currently own 3 houses) and let this Board make a mistake I've already lived through. If legal action continues and additional monies not voted upon will be spent on this sewer issue, I may have to bring about; my own legal action against the HOA and individual board members as the entire situation is a contrived event by this and the previous board members.

Mr. Melendez put in his sewer sooner than expected to help Emerald Springs. He paid his portion of repairing the lift station which he never put in and was not the Declarant nor he had any responsibility to do so. Mr. Melendez, was not responsible to any repairs or upgrades. However, Mr. Melendez redid the boat ramp. Mr. Melendez was participating and fully ready to take on the paving of Big Horn and Riviera Place until a few owners who were not willing to pay for their assessment made the entire project of paving fall through.. This project was stopped by others and not Mr. Melendez. It is very easy to just make false accusations without any knowledge, facts, or even reading the minutes of past events.

I have read the comments filed by some of the members of this community. It is clear this is not about the sewer. I think some homeowners are unhappy with Mr. Melendez. Some feel he has not done enough for the community while others feel that he did not do enough for them in the purchase of a home they bought from him. Either way, the sewer issue is not the way to "get back" at Mr. Melendez. If these individuals have issues with Mr. Melendez or DII Emerald Springs let them take up their own legal battle using their own money. The HOA dues of the homeowners of Emerald Springs should not be used for a legal battle against Mr. Melendez for particular homeowners personal issues.. Some of these attacks are coming from individuals that are new to the community and did not purchase from Mr. Melendez. These people's actions are irresponsible at a minimum. If they read the HOA recorded CC&R's they will find out the answers to their complaints. I purchased one house from Mr. Melendez and I did not experience any improper behavior nor did I receive a kick back as Mr. Price claims and yet; Mr. Price did not purchase from Mr. Melendez. I think these owners are referring to some improvements and closing costs that were negotiated as "kick-backs".

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

This Board members are making accusations that could bring a major lawsuit to themselves but most important to the entire community in court. This and the previous board have acted recklessly and not in good faith about this sewer issue. They have opted not to care for the best interest of this community. This behavior will make the individual board members liable for their irresponsible actions. I am for a transparent solution to the sewer issue. It was the HOA that wanted to make sure Mr. Melendez becomes a regulated utility, when asked about Mr. Thompson, Mr. Price stated at another Board meeting that it was unnecessary for Mr. Thompson to become ACC regulated. Why the double standard? The Board wants ACC regulation so therefore, let's go through the entire process in a responsible manner. Even if Mr. Thompson becomes our provider, let's have Mr. Thompson become a regulated utility.

I am disappointed that I could not make it for the April 10th meeting...However; I do intend to be there in person at the next meeting. I may even have my attorney contact AZCC to find out if I can intervene. I am concerned this unnecessary fight will put more doubts on this small community and will keep it depressed. We already have big negatives by having a property tax rate much greater than most high end communities in Southern California. Any new buyer will question the validity and actions of this HOA... This worries me as I am an owner with multiple properties. All these issues would only make selling that much harder.

Let's keep in mind Mr. Thompson is neither a regulated utility nor does he has the capacity to serve his trailer park and our community without violating his general permit allowance. Mr. Thompson can't keep anything within compliance. He has always been red-tagged by the County of La Paz for his illegal and out of compliance trailers. Let's also remember, Mr. Thompson has problems with the law due to illegal narcotics manufacturing, etc...

I have been on the board of this HOA since 2002 and held the position of Secretary, Treasurer, VP, and President; therefore, this makes me knowledgeable and qualified about the actual facts and events that have occurred since the date I purchased my first property in this community in 2002.

The attached documents have also been provided to the HOA Board and their attorney. These documents reflect some of the problems and issues experienced with Mr. Thompson. The documents also reflect the cooperation of Mr. Melendez.

I would like to ask the Judge to request the authorization, minutes or the resolution approved by the members; granting authority to this Board to participate in the manner they are. I am sure they can't provide one; as they are nonexistent. This could make the entire HOA intervention invalid. I am concern about this; as it could provide additional basis for a potential civil case against the entire community due to the actions and violation of the Board members.

I am a very worry and concerned property owner with no other agenda than to see that my sewer service is not interrupted, threats to close access to our community unless we allow others to use our private community amenities, which bring on liabilities, lawsuits and just simply property repair costs to the HOA, extortion

Sincerely,

Sherri Mehrvar
Lots 9, 19 & 38

ATTACHED:

Bob Watson Ltr to Combs Law Re: Doyle
Emerald Springs HOA Minutes, dtd 4/3/2004
Emerald Springs HOA Minutes, dtd 5/8/2004
Emerald Springs HOA Minutes, dtd 2/5/2005
2nd Shut off Notice
End of Complaint

Utilities' Response:

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

Investigator's Comments and Disposition:

Opinion docketed with the Docket Control Center of the Commission to be made part of the record. CLOSED
End of Comments

Date Completed: 4/4/2012

Opinion No. 2012 - 103079

Combs Law Group
Kathy Fox
Phoenix, AZ85016

2200 E. Camelback Rd

Dear Kathy:

Friday, June 25th, I had a buyer that backed out of the purchase of my home for \$495,000.00 because of the continuing harassment with Doyle Thompson. Thompson states that we have no right-of-way and has blocked that access by putting up signs and 55 gallon drums with chains across the entrance to Emerald Springs. This has impeded construction workers, trash pickup and other home owners from using the deeded property.

I went to Parker and Ehrenburg on June 22, 2004 to meet with Doyle Thompson and State Title to get the ingress/egress problem addressed. I met with Doyle Thompson to discuss the problems. Doyle told me, "for \$50,000.00 I will go away." I asked him what right he has to blackmail us when we have a legal right-of-way on his deed and ours and that the road has been in dispute for over 30 years. Doyle then came down to \$40,000.00. I told him my house was sold and he could cause it to cancel. About 7:00 that night, Doyle called me and said if I gave him \$5000.00 he would give me, only, a right-of-way. This is just extortion.

I met with La Paz County Title on June 22, 2004 and the manager told me that they would not issue a title report to anyone for Emerald Springs because the property didn't have an easement. I then went to State Title and met with manager Dale Bailey (a woman) and explained my problem with the proposed sale of my house. I had a conference call with Melendez and Mehrvars. Dale Bailey explained that United General, the underwriter, is not issuing title insurance because of the claims and dispute of easement.

On June 23rd I received a call from Dale Bailey of STATE TITLE who told me that there were no problems with title insurance and I could go forward with my sale. The purchaser asks for this in writing. I called Ms. Bailey back at least 4 times that same week to get a letter of commitment and, as of Friday, June 25th, I never received a phone call or letter. The Buyer backed out and stated they did not want to get involved in all of the problems. They are going to look else were.

UNDISPUTED FACTS.

>Watson's purchased property from Alfred Schmidt in 1998 with guaranteed title insurance from State Title and a policy from United General as underwriter.

>Alfred Schmidt, the developer at the time, sold us the property through CB reality. >Schmidt got into financial problems and two lawsuits were filed against him and CB reality by Watson and Nolls. State Title was sued by the Nolls.

>Both Nolls and Watson prevailed in these cases. Settlement for Watson was \$18,000.00 and the Nolls much higher but unknown.

>Alfred Schmidt files BK in 2000.

>New developer, George Lambert, takes over. He sells a few parcels of property and then brings in 16 mobiles home that didn't meet the CC@Rs. Watson met with Lambert and his attorney, Learch and Deprima, to resolve the CC@Rs violations. Many promises were made from Lambert's attorney and Lambert. Lambert then files BK for Stonecreek property in 2002.

>Watson, personally, files a lawsuit in Federal Bankruptcy court to stop the attempt of Lambert and company to change the CC@RS and to extricate the illegal mobile homes.

>Watson prevailed in BK court with a judgment against Stonecreek for \$27,000.00 and the removal the 16 mobiles.

>The cost of the removal to the dealer who brought in the illegal mobiles was in excess of \$1,000,000.00

(which includes repayment to lenders for the questionable sales program). The dealer has full knowledge that the mobile homes were illegal.

>George Lambert /Stonecreek Properties loses Development through foreclosure in early 2003.

>George Lambert, personally, files BK in mid summer 2003 although no documentation of this has ever been provided.

> Watson, personally, files a lawsuit against Tally Ho, Chad Dale, Tom Hirsch, Jerry Preston, Maude Prall, and Ivanho Manufactured Homes for their part in the violation of the CC@RS. This is an ongoing case.

>Lawsuit filed by Watson against Marvin Klassen for his personally owned and illegal mobile home.

>Lawsuit filed by Watson against Marty Olson for his two illegal mobile homes that were removed.

>Lawsuit filed by Watson against Lambert for falsifying the HOA corporate paperwork.

United General and State Title have guaranteed title in Emerald Spring knowing there is a problem since Nolls filed their lawsuit in 1998 or 99. State Title kept issuing title policies to about 15 more property owners since they became aware of the issue. Now they will not clearly guarantee our easement or issue anymore titles. This has brought a cloud of smoke over the entire development and is making it impossible to sell my property to anyone else. State Title tries to blame it on Mr. Melendez who is also attempting to fix the problem.

United General also sent me a letter dated January 9, 2004 and sending up another smoke screen by stating the home owners didn't paid our sewer system fees to Thompson. I believe they were looking for another excuse not to issue title policies. Not only is the ESHOA sewer paid, but what does this have to do with United General. **STATE TITLE AND UNITED GENERAL KNEW OF THE EASEMENT PROBLEMS FOR YEARS.** Even so, they didn't mind taking everyone's money even after they knew of the problem. Now they're trying to distance themselves and burden the innocent property owners with trying to figure out what to. In the meantime, we're losing home sales.

Kathy, I will give United General and State Title until Friday, July 2, 2004 at 5:00 Arizona time to have this problem resolved. Tell them to contact you at 602.957.9810. Instruct them not call Bob Watson.

If this is not resolved at that time, I will file the following lawsuit(s):

1) United General and State Title for selling title insurance but not insuring Emerald Springs Development. They knew there was a problem yet they continued to sell policies.

2) File complaint with Arizona insurance commission. Watson and two other home owners have had a claim against CB Realty.

3) I will file against Doyle Thompson for extortion or whatever I can use, not only with the right-of-way but his illegal 75 junk mobile homes he has brought in. These mobile homes do meet safety standards set in 1970 and have alumni wiring and other fire hazards. Similar mobile home burned down about a month ago!

Thompson also does not have a CUP to develop his project. Thompson Mobile Home Park is devaluating the Emerald Springs Development with illegal structures. The Emerald Springs project owners get legal permits and have continued to develop a nice project. Doyle's has used our legal right-of-way, claiming it is his. In addition, in January 2004, Thompson was trying to charge us \$100.00 per month per owner for sewer treatment or Doyle would shut off the sewer. I had to call the Arizona Corporation Commission to address the issue. Again, this is just another method intimidation for Doyle. Doyle continues trying to intimidate legal home owners while he continues to develop his illegal project. Doyle knowingly and intentionally is interfering with a contractual relationship on the sale of my property. Doyle's mobile home people continually using our boat ramp and dock who are often on drugs, drinking, leaving trash, junk boats hook up, intimidating many other owners at Emerald Spring. They have told me and others that Doyle tells them it is ok to use our private property. We have to call the police constantly. Doyle turned off our sewer and we had to have it pumped because it almost overflowed. The Emerald Springs home owners then had to pump off about

1600 gallons. Doyle then turned on his pump to back fill our tanks again starting our system to overflow within hours of being pumped off. I had to call the police to have him stopped. The Officer verified the fluids being pumped back into our tank. Doyle then told the officer it was a mistake. This was just after his attorneys, Learch and Deprima, wrote to state that Doyle was going to shut off the sewer. This could have been a huge hazmat spill into the Colorado River if it wasn't for the alert attention of an ESHOA member.

The Colorado Department of insurance states that it is unlawful to knowingly provide false information or incomplete or misleading facts to an insured! It is obvious there is a problem due to selling insurance with a known problems dating back as far as 5 years.

I WILL NOT ACCEPT A BANDAID REMEDY FOR THE EASEMENT FROM STATE TILE OR UNITED GENERAL. THIS JUST DEVALUATES MY PROPERTY AND OTHERS. IT MUST BE A CLEAR TITLE APPROVED BY (YOU) KATHY FOX.

Watson, again, along with many other home owners will file and will attest all the above.

SOMEONE will be liable for the loss of this sale.

CC: United General, Lawrence J Farin
State Tile, Dale Bailey
Learch and Deprima, Tony Deprima
Doyle Thompson
County supervisor Clifford Edey
Building Department, County of La Paz, Guy Gorman
CB Reality
Colorado Department of Insurance

***Emerald Springs HOA
Minutes of Meeting
April 3, 2004***

Homeowners Present: R. Watson, Wayne Dunn (Brian Bowen), Paul Mayfield, Bob Hassig, Tim Thomas, Luis & Barbara Corral, Cindy Noll, James Koontz, Larry & Rose Gillum, Arnold & Cathy Hester, Tammy Birchfield, Judy McMullen, Sherri & HR Mehrvar, David Ben (?), Henry Melendez, Jim Holloenbaugh (Don Osgood)

Meeting Came to Order 10:07 am - Previous Minutes of Meeting Approved by Bob Hassig

Past due amounts were discussed and Judy McMullen requested everyone to verify the amounts shown due and their email addresses or their preferred method of contact (fax, etc.). Judy hopes corrections can be made in time for the April statements to go out.

A vote was put forth NOT TO ASSESS fines for six (6) months to homeowners behind in payments. At the end of that time (Sept. 1, 2004) this issue will be brought up for a vote again. All homeowners were in favor.

If clarification of an assessment by the attorney, Kathy Fox, is requested/challenged, the homeowner requesting /challenging the assessment will be charged for attorneys' fees if those assessments are indeed valid assessments. Again, other than attorney's fees if necessary, no fines will be imposed for six (6) months.

A motion was made by Judy McMullen and seconded by Tim Thomas to put a moratorium on Bob Watson's HOA dues until the outcome of his current lawsuit is resolved. This is the lawsuit seeking damages for money he personally put out for attorneys fees, etc. in getting the "adobes" removed. All were in favor.

It was determined that the \$1,000 assessment was a ONE TIME ONLY ASSESSMENT TO EACH HOMEOWNER up to the actual amount spent by Mr. Watson. As new homeowners close escrow they will be required to pay \$1,000 and \$400 to Emerald Springs HOA. The association needs to send out letters to the local Escrow Companies indicating the fees due. Hopefully,

Mr. Watson will have the case closed in May and the \$1,000 aspect would not pertain to new homebuyers.

There was a discussion regarding any monies received by Mr. Watson over and above his expenses on the fight to remove the "adobes". Mr. Watson said he hadn't really thought about it. A 50/50 split was discussed. It was tabled until the next meeting.

The right of way has now been resolved. The six (6) months voted upon from the previous meeting is now in effect. All plans must be submitted by Sept. 1, 2004 for lot owners who have closed escrow over two (2) years ago.

Bob Watson is going to discuss with Kathy Fox the CC & R's statement of "2 years from close of escrow". It is the Board's belief that the two (2) years starts from the first close of escrow. The initial purchase being made from the developer, not a subsequent close of escrow from an individual homeowner. Hopefully, Kathy Fox will be able to clarify this. Once a determination is made it would again fall under a challenge of the CC & R's and any attorney's fees associated with enforcement would be the homeowner's responsibility.

Bob Watson is going to look into the costs of getting a court order to have the home on lot 16 removed. He will present these estimates at the next meeting. It would then be the plan to vote on having the house removed and a lien placed on the land to recover the costs.

The sewer system was then discussed with a request from Judy McMullen for those connected to forward a check for \$45 a month for Jan 2004 to present.

The discussion for the HOA to take over the boat dock and ramp was limited with very little enthusiasm on the subject. It was tabled to the next meeting.

Bob Watson is going to get yet another chain for the boat ramp.

The landscaping of common areas was tabled.

Bob Watson is going to discuss with Kathy Fox and possibly obtain liability insurance for the HOS to cover common

areas, accidents, etc. The homeowners are to be named additional insured as is the association.

It was determined that we are too small for a management company. Instead we will continue to operate the HOA ourselves. In order to eliminate any harsh feelings a motion was brought up by Bob Watson that past due amounts, violations etc. will have a letter sent out to the homeowner by the association. If the homeowner does not comply and it becomes necessary to take the issue to the attorney, Kathy Fox, the costs for attorney(s) fees will be added to the losing party (homeowner or HOA). This motion was seconded by Judy McMullen and approved by all.

A motion to limit the homeowners on the river side to palm trees on the lower portion of land was brought up by Bob Watson. All were in favor except Sherri Mehrvar. It was then questioned as to whether or not we could enforce this as it is already addressed in the CC & R's. There can not be any trees that block others view. It was then decided that all landscaping needs to be approved by Henry Melendez. If a tree became too large and was blocking a view a letter would go out requesting it be trimmed or removed.

Henry Melendez addressed the homeowners and updated us on the most recent activities. They are still having trouble finding framers. He doesn't have a conditional report yet but expects it in a couple of weeks (mid April). At that time Henry can have sales enter escrow. Escrow can not close until he has a final public report. Once funding goes through Henry expects 5 to 10 homes a month to be built.

It was asked if a manufactured home is authorized in the development. As long as they comply with the CC & R's they are allowed. They need to have a tile roof, stucco, garage, etc. All these extras add up. It was brought up that Dan Berkey can build a site built house for almost the same price His price is running approximately \$90 a square foot.

Meeting Adjourned 12:18

The next HOA meeting is scheduled for Sat. May 8th at 10am at the Watson residence. It is highly recommended that all lot owners attend this meeting. Bob has received a

certified letter from Doyle saying the sewer will be cut off April 30th. He is also disputing the right of way again.

Emerald Spring Homeowners Association
Minutes of Meeting
May 8, 2004

Meeting came to order 10:00 am

Owners Present: Craig & Pennie Nelson, Larry & Rose Gillium, Wayne Dunn, Bob Hassig, Bob & Lois Watson, Judy McMullen, Greg Gates, Robert Noll, Barbara & Luis Corral, Cathy & Arnold Hester, Henry Melendez. Others Present: Dan Berkey, Jim & Kim Hollenbaugh, Don Osgood, Cy Young and Tonia Grubbs (?).

The sewer system from Henry should be delivered by the end of May and installed shortly thereafter. Henry sending an emergency letter to ADEQ and expects the system to be fully functional by mid June.

Riverwalk – would like to have a 5' to 6' easement through Phase I and II to use as a riverwalk for all residents. Later most homeowners said they would not give an easement

RV area would be separated from this project (not included in gated community) if ever.

Kathy Fox phoned at 10:30 and started her conference call. She stated she has been retained to represent the HOA, not the Board Members individually or individual homeowners. If anyone should have any questions they are to email the Board and the board will answer if able or if not will contact Kathy Fox for an answer.

The previous developer, Stonecreek Properties/George Lambert brought in homes that did not comply with the CC & R's. The homeowners association was not ready (legal) that was why an individual, Bob Watson, had to stand up to Stonecreek. This resulted in the removal of the "Adobes". In court Bob Watson was awarded damages but as yet, is unable to collect. A second lawsuit was filed by Bob Watson to collect attorneys' fees, damage to Bob Watson's home and charges incurred to remove debris left from the removal of the "Adobes".

Stonecreek did not participate in upholding the CC & R's, the HOA was adrift with no one representing or protecting the lot owners' rights. Therefore the lot owners were forced to take on the burden of the Homeowners Association. Stonecreek tried to change the CC & R's. Stonecreek frauduantly filed with the Corporation Commission. The court determined that the fraudulent association was invalid. Bob Watson was President of the Emerald Springs Homeowners Association.

Currently we have no binding authority. This is easy to fix. Proper notice needs to be given and identify the agenda. Only Henry can do this. He is in the process of doing this with Kathy Fox's help. We expect the meeting to be sometime around May 22, 2004 in the Los Angeles area. A Board will be voted in (if anyone is interested in running, please email Henry Melendez). The Board can then ratify what the HOA had done in the past. The entire process is just paperwork. By doing this it will ensure that there will not be

any way to contest the HOA. We are simply dotting our I's and crossing our T's and doing away with any possible doubts as to the legality of the HOA.

A proxy will be provided with the notification of the meeting. If you are unable to attend, please submit your proxy vote.

The HOA is working on the sewer issue as is Henry. Doyle currently has no legal obligation to provide service. Henry is in the process of providing a new sewer treatment plant. This is being done by Henry much earlier than he would need it as a sign of good faith to the homeowners. His temporary plant can process 20,000 gallons a day, or approximately 100 homes, and should be up and running by mid June.

A permanent facility will be in place in approximately 2 years when needed to complete Phase II.

Doyle wants indefinite access to the boat ramp and dock in return for a short term use of his sewer system. Can the ADWQ have him arrested? No. What the ADEQ would probably do if he shut the system off is order him to continue his service until Henry's was in place because the lack of a sewer system would be a public nuisance.

Per Henry Melendez the Dept. of Real Estate report says that he doesn't have to give the existing home/lot owners access to his sewer system and he can create a separate HOA. He wants to have only one HOA with one contract to his sewer system. He is endorsing our HOA.

At the next meeting an architectural committee will be formally appointed. Henry Melendez will be that committee.

All garages Dan Berkey is putting in currently are 10' high and that will be the maximum height.

Bob Knoll brought up past violations of the CC & R's such as walls being too high etc. You can't violate CC & R's. HOA can take action. At the next meeting the Board can determine what type of action such as "fines" being assessed for past violations but have a "grandfather" type clause and from that point forward the HOA would enforce any violations.

Kathy Fox signed off from the conference call at 10:55 am.

The CC & R's state that views can not be blocked. Keeping this in mind plus keeping with the uniformity of the subdivision no two (2) story homes will be on the riverfront.

Henry owns the majority of the lots. Henry has control of the subdivision. He plans to pass the running of the HOA on to elected Board Members.

Electronic File Sharing was brought up for the HOA. Legal documents, Minutes of meetings, etc. could be put on line. The HOA would have to invest in a copier scanner and someone would have to scan the documents but Henry does have a site we could use.

District Attorney Glenn Buckalew told Bob Watson on Friday, May 7, 2004 that he will not do anything about Doyle's place even though construction continues on red tagged mobile homes. This November is his re-election. Bob Watson suggests that we get behind his opponent and do what we can to see that Glenn Buckalew is not re-elected. Glenn Buckalew did not respond to a written letter regarding the problems of Emerald Springs and Doyle Thompson's trailer park. He also declined to attend our meeting.

Henry is starting six (6) more houses. His financing is in place for the first phase. He has a Conditional Public Report.

Lot 16 was probably built substandard. Bob Watson spoke with Clifton Eddy on Friday, May 7, 2004 and the County is going out next week to inspect and possibly red tag it. The home does not meet the CC & R's, is a danger and is well past the 9 months given to build per the CC & R's. Because of these reasons and because the HOA does not want to see someone (an individual) buy it and have to spend our time and effort all over again to try to get it up to standards or removed, we would like to just see it removed.

Meeting adjourned at 11:35 am.

Emerald Springs HOA
Board of Directors
Meeting 2-5-05

Board Members Present - Judy McMullen, Cindy Noll, Bob Hassig, Barbara Corral, Sherri Mehrvar & Henry Melendez
(10:30)

Meeting Came to Order - 10:15 Arizona time
All members present stated they had no objections to the meeting. Any votes would be binding.

Jim Grimes went over sewer pump costs, how they were priced & what it included (beacon included?). A new lid is needed at an estimated cost of \$200. \$100 a month maintenance fee Jim is charging includes him checking on the system a minimum of three (3) times a week. Sherri presented the pricing on pumps that she was able to obtain through the internet. Pricing was in line with what Jim Grimes has quoted us.

Electric costs to the sewer have increased. Possible problems may be the system is plugged; the pumps are struggling therefore cycling on too frequently. This lift system currently has only a couple hundred gallon capacity.

Henry Melendez agreed to participate in the costs of the sewer lift station repair. All 52 lots will incur costs of approximately \$6,800.00 to repair lift station (approximately \$130.00 per lot). All lots with a Certificate of Occupancy will bear the costs of the lift station maintenance fee and electric charges for such. In six (6) months costs will be reassessed.

All members present (excluding Henry Melendez) voted to re-approve the "Agreement Regarding Sewer Services" dated July 10, 2004. Sewer fees to lot owners are due upon Certificate of Occupancy. Sewer fees to homes that Henry is building are due at the Close of Escrow.

Cindy Noll was successful in bring down Comb's Law Group's fees from approximately \$2,000 to \$400.

It was decided that should we need to engage the Comb's Law Group again we would negotiate for a \$400 a month payment plan in order to defray large upfront costs to the homeowners. Discussed what a Statutory Agent entails. Uncertain other than Annual Reports, Annual Minutes and a name and address in Arizona for receiving legal documents etc. Bob Hassing's name c/o Barbara Corral's address will be used.

The issue of Henry being the declarant was discussed. Per Henry he can go back to the Court Trustee to be declared the declarant if necessary. Also, per Henry, he can just vote against himself being assessed dues as the majority owner. Technically, Henry is not a part of this HOA - others disagreed.

Discussed water issue. ADQ made a mistake and said EIA was in compliance, now they say it is not in compliance. There is not enough contact time for chlorine to kill bacteria. The ADQ found the whole water company is in violation for Ehrenberg. Henry has a meeting with them Tuesday, February 08, 2005. ADQ made an error initially. ADQ, EIA and Henry need to come to an agreement to fix the problem.

It was decided that in order for Henry to be viewed as a declarant in the eyes of the Emerald Springs HOA certain criteria has to be met. Henry agreed to do a letter of intent outlining the enhancement/repairs agreed upon which was pave and landscape the area around the boat launch and put a final coat of asphalt on Riviera Place.

The whole community will be gated by Phase II. In addition, Clayton/Bighorn will be improved in Phase II from the point where there is a dirt road that goes south to the sewer plant "submarine" to Riviera Place.

As the developer, Henry possibly may not be responsible for any money going into the HOA but Henry has agreed to help by providing the improvements outlined above and is in the process of writing a letter of intent stating the exact improvements he will be providing.

Meeting Recessed at 1:25 for Lunch

Meeting Brought to Order Again at 2:25

All Board Members agree that the CC&R's can be changed by a majority vote as outlined in our CC&R's.

Barbara to check further on specific Arizona HOA rules (i.e. Liens etc.).

Henry has planned one (1) boat ramp & dock per Phase - some of them with handicap access.

Sherri to send out questions & answers on revised CC&R's.

Barbara Corral's question number 9 - Sec. 6.15
Discussion - approximately 200 to 250 homes altogether so fees would be 1/200th-1/250th of costs (estimated at 2 million or \$10,000 per lot for the 19 lots) this would be a one time only fee. Each lot owner would have the option to buy into the use of the amenities. Gating is not part of the "amenities" (no fee associated with gating). Gating is part of the CC&R's agreement.

3.16 I - being changed to clarify two story.

6.12 - Because HOA already exists, the developer does not have to fund reserves. Henry charging new buyers \$400 initial "working capital" payable to HOA.

3.10 Add word "minimum"? Clarify somehow.

3.2.13 - Old CC&R's wording needs to be incorporated into the new CC&R's.

3.12 - Board's discretion

3.18 E - Needs re-wording - Bob Hassig and Sherri Mehrvar to check their other homes' CC&R are to see how they address this situation (5 days?)

4.1 A 3 - Needs re-wording - add 5.8.2 C, D & E from old CC&R's

4.2 - add 8.4.2 from old CC&R's

5.7 AB - to be brought to the general association

6.3 - Re-wording - after 1st house is sold...

Add info regarding inspection of records and books.

Discussed Henry's Public Report - does not pertain to original owners. Original 19 lots should have received a public report that the particular developer selling the lot had filed.

Big Horn Drive Maintenance - currently no maintenance to be done. This will set a precedent and we don't own the worst part of the road.

Budget - An additional trash bin or additional pick up will be added approximately June or when we see its needed based upon more people moving in and using the trash bins. Board unanimously authorized Jim Grimes to proceed with the sewer lift station repairs. Also authorized an additional \$20 per month increase for sewer (repairs - maintenance (Jim Grimes' fees) etc.

Treasurer presented the 2004 income/expense statement to the Board. Treasurer will review the approved expenditures from the meeting and create revised HOA dues amount which will be reflected in the April Statements for all HOA members

Insurance for the HOA probably 7 months off

The development needs a security patrol. Hire off duty officer? Not to be paid for by the HOA.

>>

>> That is interesting, as Tony DePrima assured me that his client would not turn off the
>> sewer until at least Friday so that I would have an opportunity to review certain
>> materials he provided, to speak with Henry Melendez, and to attempt to resolve the
>> subject issues.

>>

>> I will contact DePrima and then send the Board a more thorough email addressing the
>> information I obtained on Monday.

>> --- Original Message---

>> To: "Cliffon Edey" <cedey@co.la-paz.az.us>, "kathy Fox" <kathy@combs-law.com>,>> "Tim Lori Thomas" <rhapsody@cts.com>, "Bob & Cindy Noll" <rw.noll@cox.net>,>> "Bob Suzanne Hassig" <rbhcole@pacbell.net>, "Greg Gates">> <Greg.Gates@fire.ca.gov>, "Hahmid Mervar" <hmehrvar@sbcglobal.net>, "Henry>> Melendez" <dynamic@norente.com>, "Janie Wayne Dunn">> <immamaj@hotmail.com>, "Jim Christie Koontz" <topnotchplumbing@aol.com>,>> "Jimmy lot 17 Hollenbaug" <jimmybgd1@cox.net>, "Kathy Emerald Springs">> <hladd80@aol.com>, "Larry Rose Gilliam" <roselarry2@cox.net>, "Luis Corral">> <luis@direcway.com>, "Pennie and Craid Nelson" <cnpnelson@cox.net>, "Robert>> Watson" <rwatson@amtowa.com>, "Ron Judy Jerrells" <rjjerrells@yahoo.com>,>> "Tammie & Dennis" <Birchfieldz@aol.com>, "Terry Hassig">> <tkhassig@yahoo.com>>> From: "Robert Watson" <rwatson@amtowa.com>

>> Sent: 5/06/2004 7:27AM

>> Subject: Shit happens

>>

>> >> Doyle shut the sewer off. Going to plan 2. Do not use any water unless

>> >> necessary. Louie is calling the county. The sewer is overflowing

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